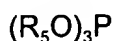


present application are respectfully requested in light of the above amendments and the following remarks.

Claims 1 and 17 have been rejected under 35 U.S.C. §112 for the reasons indicated on page 2 of the office action. Specifically, the Examiner contends that claims 1 and 17 provide no antecedent support within the claims for "the ratio" and "the equivalents." Applicant believes that this rejection has been obviated by the above amendments to claims 1 and 17. Withdrawal of the rejection is believed to be warranted and is respectfully requested.

Claims 1-15 and 17-20 have been rejected under 35 U.S.C. §102(b) as anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over Hollinghurst et al. (U.S. Patent 3,652,410). Claim 16 has been rejected under 35 U.S.C. §103(a) as unpatentable over Hollinghurst et al. in view of Ohtani et al. (U.S. Patent 5,344,579). Claims 1-15 and 17-20 have been rejected under 35 U.S.C. §102(b) as anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over Di Biase et al. (U.S. Patent 5,523,005). The rejections as they would apply to claims 4, 5, 7 and 13 are now moot in view of the cancellation of such claims. The rejections as they would apply to claims 1-3, 6, 8-12 and 14-20 are respectfully traversed for the following reasons.

The above-indicated amendments to claims 1, 10 and 17 redefine component (A) as being a basic metal salt of a carboxylic acylating agent, and component (B) as a hydrocarbyl phosphite represented by the formula



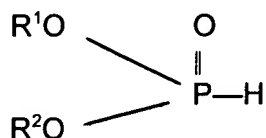
wherein each R_5 is independently hydrogen or a hydrocarbyl group and at least one R_5 is hydrocarbyl. These amendments clearly distinguish the applicant's claims from the teachings in the references cited by the Examiner in subject rejections.

Hollinghurst et al. discloses an additive formulation for a multi-purpose lubricating oil that contains a basic detergent, and an organic phosphite or an organic acid phosphate. The basic detergents are described as basic alkaline earth metal sulfonates or phenates (see, column 3, lines 14-49). On the other hand, the applicant's amended claims 1-3, 6, 8-12 and 14-20 are distinguishable from the teachings in this reference by specifying that component (A) is a basic metal salt of a carboxylic acylating agent. Hollinghurst et al. does not disclose or suggest the use of a basic metal salt of a carboxylic acylating agent as the basic detergent. Accordingly, it is respectfully submitted that the teachings in Hollinghurst

et al. do not anticipate or render obvious the applicant's claims 1-3, 6, 8-12, 14, 15 and 17-20. Withdrawal of the rejections based on the teachings in Hollinghurst et al. is believed to be warranted and is respectfully requested.

Ohtani et al. is cited in combination with the teachings in Hollinghurst against claim 16. The Examiner contends that Hollinghurst et al. fails to teach the claimed friction modifiers, but Ohtani et al. teaches lubricant compositions suitable for use in transmissions wherein the supplemental friction modifiers may be fatty acids, fatty amines or fatty amides. However, Ohtani et al. does not disclose or suggest combining its disclosed friction modifiers with a basic metal salt of a carboxylic acylating agent and a hydrocarbyl phosphite as required by the applicant's claims. Accordingly, applicant respectfully submits that the teachings in Hollinghurst et al. taken in combination with the teachings in Ohtani et al. are not sufficient to render the applicant's claim 16 obvious. Withdrawal of the rejection is believed to be warranted and is respectfully requested.

Di Biase et al. discloses gear oil compositions which comprise a lubricating base oil having dissolved therein: (A) at least one phosphite ester characterized by the formula



wherein R¹ and R² are hydrocarbyl based groups from 1 to 30 carbon atoms; and (B) at least one metal overbased composition. The hydrocarbyl phosphite required by the applicant's amended claims 1, 10 and 17 is clearly distinguishable from the phosphite ester disclosed in Di Biase et al. Accordingly, it is respectfully submitted that claims 1-3, 6, 8-12, 14, 15 and 17-20 are not anticipated by or rendered obvious by the teachings in Di Biase et al. Withdrawal of the rejections based upon the teachings in Di Biase et al. is believed to be warranted and is respectfully requested.

The Examiner's attention is directed to the Information Disclosure Statement filed with this response. In the enclosed Information Disclosure Statement, three of the references cited by the Examiner in the final rejection are cited. The reason these references are cited in the enclosed Information Disclosure Statement is that applicant's files do not indicate that the Examiner issued a Form PTO-892 citing the references.

Accordingly, the enclosed Information Disclosure Statement is provided, in part, for housekeeping purposes to make certain that the references are made of record.

Applicant believes that the application is now in condition for allowance. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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APPENDIX - - Am ndm nt Version With Markings to Show Changes Made

Claims 4, 5, 7 and 13 have been canceled.

Claims 1, 10 and 17 have been amended as follows:

1. (Twice Amended) A lubricating composition comprising a major amount of an oil of lubricating viscosity and (A) a basic metal salt of [an acidic organic compound] a carboxylic acylating agent and (B) a hydrocarbyl phosphite represented by the formula



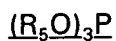
wherein each R₅ is independently hydrogen or a hydrocarbyl group and at least one R₅ is hydrocarbyl, provided that the lubricant is free of metal deactivators, wherein the basic metal salt (A) is an overbased material and the ratio of [the] equivalents of overbased material based on total base number to [the] equivalents of hydrocarbyl phosphite based on phosphorus atoms is at least one.

10. (Twice Amended) A lubricating composition comprising a major amount of an oil of lubricating viscosity and (A) from about 0.02% to about 5% by weight of a basic metal salt of [an acidic organic compound] a carboxylic acylating agent and (B) a hydrocarbyl phosphite [independently having from] represented by the formula



wherein each R₅ is independently a hydrocarbyl group of about 2 to about 8 carbon atoms, wherein (B) is present in an amount to deliver from about 0.01% to about 0.3% by weight phosphorus to the composition, provided that the lubricant is free of metal deactivators.

17. (Twice Amended) A lubricating composition prepared by blending a major amount of an oil of lubricating viscosity and (A) a basic metal salt of [an acidic organic compound] a carboxylic acylating agent and (B) a hydrocarbyl phosphite represented by the formula



wherein each R₅ is independently hydrogen or a hydrocarbyl group and at least one R₅ is hydrocarbyl, provided that the lubricant is free of metal deactivators, wherein the basic metal salt (A) is an overbased material and the ratio of [the] equivalents of overbased material based on total base number to [the] equivalents of hydrocarbyl phosphite based on phosphorus atoms is at least one.